

BIENNIAL REPORT, 1998

The Biennial report is required every two years by Minnesota Statutes, Chapter 214. Below, is the report submitted as of September 30, 1998.

COST OF PREPARING THIS REPORT

According to the Laws of 1994, Chapter 559, Section 1 (adding a new statutory section, *Minnesota Statute* 3.197), costs incurred in the preparation of this report must be reported. The Minnesota Board of Chiropractic Examiners (MBCE) estimates the cost of preparing this report to be \$435.00.

GENERAL STATEMENT OF BOARD ACTIVITIES

The Minnesota Board of Chiropractic Examiners (MBCE) exists to protect the public's interest through the regulation of chiropractic. Regulation is accomplished through licensure of chiropractors and investigations of complaints against them.

Applicants for licensure have access to a nationalized licensing examination two times per year. Prior to being allowed to take the licensure examination, applicants must fulfill requirements set forth in statute and rule. All portions of the examination must be passed by a minimum score of 75% in order for an applicant to be licensed.

The MBCE monitors licensed chiropractors' practice ability by the requirement of continuing professional education for license renewal. Doctors of chiropractic must obtain this education from sponsors approved by the MBCE, or by an MBCE approved sponsor.

The MBCE investigates consumer complaints. The MBCE currently has three complaint panels comprised of the executive director and two board members each. These panels share the responsibility of reviewing, and when warranted, investigating all complaints received. If a panel determines that action against a license should be taken, the panel makes that recommendation to the full board, which has the authority and charge to take such action.

The MBCE promulgates rules. *Minnesota Statutes* 148.08 empowers the MBCE with the authority to "promulgate rules necessary to administer sections 148.01 to 148.105 to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any terms . . ." The MBCE follows rulemaking procedures as established by the Administrative Procedures Act, and does so in consultation with the Office of the Attorney General and the Office of Administrative Hearings.

The MBCE also registers those licensed chiropractors who have formed a professional corporation, perform independent examinations, wish to serve as Preceptors ("pre-licensure field supervisors,") and/or perform acupuncture.

As mentioned above, the MBCE conducts a graduate preceptorship program. This program allows an intern to practice chiropractic under the direct supervision of a licensed chiropractic

physician for one twelve-month period. The program was designed to allow appropriately supervised graduates of chiropractic colleges to continue practicing while waiting to take and receive results from the licensing examination.

A seven-member Peer Review Committee appointed by the executive director exists to review cases for determination of whether or not the chiropractor properly utilized services, the chiropractor rendered or ordered appropriate treatment, and the cost of the treatment was unconscionable.

BOARD EMPLOYEES

SPICER, DC; LARRY A.	Executive Director	010693 to present
KING, MICHELLE T.	Health Program Representative	070290 to present
WATSON, PATRICIA	Clerk Typist I	080194 to 081997
	Clerk Typist II	082097 to 050398
	Clerk Typist I	050498 to 070798
	Office Specialist	070898 to Present
ELMASRY, REBECCA	Clerk Typist I	100697 to 050398
	Clerk Typist II	050498 to 070798
	Office/Administrative Specialist	070898 to Present
LANOUX, DEBRA J.	Clerk Typist II	080889 to 061593
	Clerk Typist II	120193 to 080394
	Clerk Typist III	080494 to 051497
LONGSTROM, TERI	Clerk Typist IV	051398 to 070798
	Office/Administrative Specialist - Senior	070898 to 092998
CAMPBELL, LORI A.	Administrative Secretary	041690 to 080394
	Executive 1	080494 to 043198

BOARD MEMBERS

<p>*COLVARD, D.C., JOHN</p> <p>12273 Whispering Trail</p> <p>Eagan, MN 55122</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: March 14, 1994</p> <p>Reappointed: February 10, 1998</p>
<p>*IBURA, D.C., AKIBA M.</p> <p>4801 Minnetonka Boulevard</p> <p>St. Louis Park, MN 55416</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: January 13, 1992</p> <p>Reappointed: January 1996</p>
<p>*KASSEKERT, ROSEMARY</p> <p>952 West Idaho Avenue</p> <p>St. Paul, MN 55117</p>	<p>Occupation: Attorney</p> <p>Appointed: February 24, 1993</p>
<p>*OTTO, D.C., LEROY F.</p> <p>127 S High Street</p> <p>Lake City MN 55041</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: January 1995</p>
<p>*PENNEBAKER, D.C., GARY</p> <p>8140 Flying Cloud Drive #201</p> <p>Eden Prairie MN 55344</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: January 1996</p>
<p>SEABERG, JOANNE</p> <p>2117 Vienna Lane</p> <p>Eagan MN 55122</p>	<p>Occupation: Consultant</p> <p>Appointed: January 1995</p> <p>Resigned: June, 1997</p>
<p>*ESCH, D.C., CHARLES</p> <p>1251 Niles Ave.</p> <p>St. Paul, MN</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: February 10, 1997</p>
<p>*PATALONIS, JOAN</p> <p>2560 Manitou Lane</p>	<p>Occupation: Retired</p> <p>Appointed: July 21, 1997</p>

White Bear Lake, MN 55110	
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* = current board member

PEER REVIEW COMMITTEE MEMBERS

<p>BUFFIE, D.C., PERRY</p> <p>7949 B Highway 55 - Box 207</p> <p>Rockford MN 55373</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: March 1996</p>
<p>*DALE, CANDACE L.</p> <p>5120 IDS Center</p> <p>80 S 8th Street</p> <p>Minneapolis MN 55402</p>	<p>Occupation: Attorney</p> <p>Appointed: December 1996</p> <p>Reappointed: December 1997</p>
<p>HENDERSON, D.C., ROSS</p> <p>9255 15th Street North</p> <p>Lake Elmo, MN 55042</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: June 1, 1994</p> <p>Reappointed: May 1996</p>
<p>*OLSON, D.C., DAVID CLIFFORD</p> <p>3570 Lexington Ave n #208</p> <p>Shoreview MN 55126</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: April 1996</p> <p>Reappointed: April 1997</p> <p>Term Extended</p>
<p>SHEPHERD, D.C., ROBERT</p> <p>1932 Hennepin Ave S</p> <p>Minneapolis MN 55403</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: December 1995</p> <p>Reappointed: December 1996</p>
<p>*HAGAN, D.C., THOMAS</p> <p>124 Main St.</p> <p>Preston, MN</p>	<p>Occupation: Doctor of Chiropractic</p> <p>Appointed: October, 1996</p> <p>Reappointed: October, 1997</p>

ROMAIN, CAROL 636 Evergreen Court Stillwater, MN 55082	Occupation: Claims Reviewer Appointed: February, 1997
*ANGOVE, D.C., DOUGLAS 1608 Hillsboro Ave. North Golden Valley, MN 55427	Occupation: Doctor of Chiropractic Appointed: November, 1996 Reappointed: November, 1997
*BUTLER, D.C., DAVID 2308 So. Broadway Alexandria, MN 56308	Occupation: Doctor of Chiropractic Appointed: April, 1997 Reappointed: April, 1998

* = current Peer Review Committee member

TIME SPENT BY BOARD MEMBERS ON BOARD ACTIVITIES

Activity/Meeting	Fiscal Year	Number of Occurrences	FY97 Hours	FY98 Hours
Board Meetings	97	8	104.75	
	98	4		87.00
Rules Committee	97	8	87.00	
	98	4		13.00
Complaint Panels	97	31	248.60	
	98	34		223.70
Executive Committee	97	8	21.75	
	98	5		21.00
Test Development Committee	97	11	176.00	
	98	1		16.00
License Exam Administration*	97	2	42.00	

	98	2		30.0*
Out-of-State Conferences	97	4	176.00	
	98	2		104.00
All Meetings		122	856.10	494.70

TIME SPENT BY PEER REVIEW COMMITTEE (PRC) MEMBERS ON PRC ACTIVITIES

Activity/Meeting	Fiscal Year	Number of Occurrences	Total Hours
Peer Review Committee	97	10	130.75
	98	7	61.17

* An observer will note that the License Exam Administration will have decreased from 72 and 78 hours in the 95-96 biennium respectively, to 42 and 30 hours in the 97-98 biennium respectively. This results from the fact that in 1997, the MBCE moved to adopt the utilization of a nationalized exam developed and administered by the National Board of Chiropractic Examiners (NBCE.) Although administered by the NBCE, the administration is supervised and directed by an MBCE designee who has been give specific authority to act as the chief examiner.

RECEIPTS AND DISBURSEMENTS OF BOARD FUNDS

<u>Fiscal Year</u>	<u>Receipts</u>	<u>Expenditures</u>	<u>Variance</u>
97	476,731	510,835	(34,104)
98	498,065	469,970	28,094

NUMBER OF PERSONS HAVING A LICENSE AS OF JUNE 30, 1997

Licenses: Active 1652

Inactive 201

TOTAL LICENSES: 1853

Registrations: Acupuncture 326

Corporation 241

Independent Examiner 74

NUMBER OF PERSONS HAVING A LICENSE AS OF JUNE 30, 1998

Licenses:Active	1767
Inactive	201
TOTAL LICENSES:	1968
Registrations:	
Acupuncture	359
Corporation	270
Independent Examiner	90
Preceptor	49

LOCATIONS AND DATES OF LICENSE EXAMINATION ADMINISTRATIONS

As of January 1997, the MBCE adopted the utilization of the National Board of Chiropractic Examiners (NBCE) Part IV Practical examination in lieu of developing and administering its own examination. The NBCE is a national testing agency whose written exams have been previously required prior to the taking of the MBCE's practical licensing exam. Since the NBCE developed a high quality practical licensing exam, the MBCE chose to incorporate it into its determination of entry level competency. This examination is provided in May and in November of each year, and is conducted at Northwestern College of Chiropractic, as well as approximately 8 other sites nationally.

However, the NBCE does not provide an examination in jurisprudence (the laws relative to the practice of chiropractic) which the MBCE has also required as part of its licensing process. Therefore, the MBCE currently schedules a written jurisprudence examination on the third Wednesday of each month, and has done so since January of 1997. The jurisprudence examination is given in the offices of the MBCE.

No persons were licensed by any means other than successful completion of the licensing examination. No persons were denied licensure following the successful completion of the licensing examination.

STATISTICAL SUMMARY**FISCAL 1997**

NBCE		
Testing	Written	Practical

	September 1996	November 1996
	March 1997	May 1997
Minnesota Jurisprudence Examination- Test given at Northwestern College of Chiropractic		
January 1997		
April 1997		

Applicants that took the Jurisprudence Examination in Fiscal 1997

Gender	Age: 18-23	Age: 24-29	Age: 30-35	Age: 36-41	Age: 42-47	Age: 48-53	Age: 54+	State in Residence
Female	2	14	3	2				MN-15, CA-2, IA-2, MO-1, SC-1
Male	18	25	10	1	1			MN-46, WI-2, WA-1, CANADA-1, ME-1, IN-1, ND-1, IL-1, FL-1

Applicants licensed in Fiscal 1997

Gender	Age: 18-23	Age: 24-29	Age: 30-35	Age: 36-41	Age: 42-47	Age: 48-53	Age: 54+	State in Residence
Female		13	1	1				MN-14, MO-1
Male		21	10	2	1			MN-31, WI-1, CANADA-1, IL-1

STATISTICAL SUMMARY

FISCAL 1998

NBCE Testing	Written	Practical
	September 1997	November 1997

	March 1998	May 1998
Minnesota Jurisprudence Examination- Test given at MBCE office		
July 16, 1997	January 21, 1998	
August 20, 1997	February 18, 1998	
September 17, 1997	March 18, 1998	
October 15, 1997	April 15, 1998	
November 19, 1997	May 20, 1998	
	June 17, 1998	

Applicants that took the Jurisprudence Examination in Fiscal 1998

Gender	Age: 18-23	Age: 24-29	Age: 30-35	Age: 36-41	Age: 42-47	Age: 48-53	Age: 54+	State in Residence
Female	1	25	12	2	2	1		MN-41, IA-1, ND-1
Male	1	52	22	7	3		1	MN-73, GA-1, IA-4, NE-1, SD-1, CA-1, KS-1, MA-1, Canada-1, AZ-1, KY-1

Applicants licensed in Fiscal 1998

Gender	Age: 18-23	Age: 24-29	Age: 30-35	Age: 36-41	Age: 42-47	Age: 48-53	Age: 54+	State in Residence
Female	1	25	12	2	2	1		MN-41, IA-1, ND-1
Male	1	49	22	6	3		1	MN-71, GA-1, IA-3, NE-1, SD-1, KS-1, MA-1, Canada-1, AZ-1, KY-1

DISCIPLINARY ACTIONS TAKEN

Fiscal 1997

There were six (6) disciplinary actions:

- 1 cease and desist for unprofessional conduct
- 2 probation for failure to renew license
- 1 probation for non-compliance with the board
- 1 probation for poor recordkeeping
- 1 stipulation for unprofessional conduct

There were seven (7) corrective actions:

- 4 unprofessional conduct
- 1 unlicensed practice
- 1 poor recordkeeping
- 1 malpractice

There was one (1) complaint referred to another governmental agency as required pursuant to
M.S. 214.10

Fiscal 1998

There were eight (8) disciplinary actions:

- 1 probation for improper billing
- 1 probation for unprofessional conduct
- 1 revocation for unprofessional conduct
- 3 suspension for unprofessional conduct
- 1 suspension for drug/alcohol abuse
- 1 suspension for non-compliance with the board

There were four (4) corrective actions:

- 1 poor recordkeeping

2 unprofessional conduct

1 improper billing

There were two (2) complaints referred to another governmental agency as required pursuant to
M.S. 214.10

COMPLAINT STATISTICS

CATEGORY	SUB-CATEGORY	FY97	FY98
Acupuncture	not registered	1	
Advertising	false or cure	6	1
	free services	2	9
	no name or no DC/Chiropractor	7	10
	not chiropractic or chiropractor	3	3
	other	1	4
	better than other chiropractors		4
	phone/MVA solicitation	1	1
Applicant	item/action reported on application	3	3
	academic probation		1
	disability		1
	report of cheating on board exam	1	
Billing	billing dispute	14	7
	excessive fees	2	8
	fraudulent	15	23
	threatening	2	2
Child support	failure to pay		1
Competence/negligence	competency	1	6
	negligence (injury)	4	
Criminal conviction	criminal conviction	4	2
Drug/alcohol abuse	drug or alcohol abuse	2	5
	violation of board order (by drinking)	1	1
Independent Examiner	competence	2	
	false or inaccurate report		3

	not registered		1
	unprofessional conduct	1	2
Malpractice payment report	malpractice payment report	5	4
Noncompliance	fraudulent billing (under probation)	2	
	violation of GPP		1
	noncompliance-board request/order	3	3
Quality of care	ability/disability	2	2
	competence/negligence	4	11
	nonstandard treatment/scope of prac	3	5
Recordkeeping	recordkeeping poor	3	5
	records false or altered	2	2
	records mishandled		1
Release of records	failed to release or supply	11	7
	release w/o waiver/breach pt confiden		1
Unlicensed practice	practicing while un-renewed	3	
	unlicensed student or delegating	3	9
	P.T., M.T., N.D.	1	3
Unprofessional conduct	other	5	7
	high-pressure or scare tactics	1	3
	over-utilization of services	4	3
	sexual misconduct	23	12
Unsafe practice	unsanitary	1	
	unsafe x-ray techniques		1
TOTALS		148	178

RULES SUMMARY

For the purposes of this section, rules will be summarized by category: Adopted rules, and rules currently being promulgated.

Rules Currently Being Promulgated

Acupuncture; Dual Registration - In 1996 the Board of Medical practice established a statute requiring the registration of those persons performing acupuncture, which necessarily exempted chiropractors. Prior to this, chiropractors who were performing acupuncture had to do so after

being registered in tandem with their chiropractic license and had to perform such service in conjunction with chiropractic care. This rule is promulgated to address those chiropractors who are otherwise qualified and registered to perform acupuncture service independent of chiropractic care. (23 S.R. 409)

Continuing Education; non-endorsement - A statement in rule that continuing education programs are not endorsed by the board when approved, but merely approved based on the requirements of the law. (20 S.R. 2069)

Continuing Education; Unapproved Programs - This rule will broaden the approval criteria slightly to allow for the approval of programs that would be of significant benefit to the practitioner and the patients, but which are currently unapprovable due to a narrow interpretation of ambiguous language. (20 S.R. 2069)

Continuing Education; Alternative formats - This rule will allow for an increase in the methods by which licensees can acquire continuing education, including such possible formats as videoconferencing, online, correspondence, etc. (19 S.R. 740)

Definitions; "Extern" and "Intern" - This rule is currently being revised to clarify the use of these terms to designate a postgraduate and pregraduate status respectively. (23 S.R. 411)

Definitions; "Expire" and "Terminate" - Clarification of the administrative procedures established when a license expires normally, as distinguished from the situation in which a practitioner fails to complete the renewal process. Is also the precursor to establishing the procedures for renewing when a license has been administratively terminated. 20 S.R. 2068)

Fees; Increase of Fees related to licensure exam, Graduate Preceptorship Program, license renewal, license renewal penalty, inactive licensure, independent examiner registration, independent examiner renewal, acupuncture registration, acupuncture registration renewal, continuing education sponsorship (individual and annual), letters of good standing, lists generated by the board. - The board is considering a "global" increase in fees in order to meet the increasing costs of the agency, while at the same time trying to fairly distribute such costs. (23 S.R. 410)

Examination; Use of National Boards Part IV - This series of rules is designed to incorporate the national testing organization in the last phase of the competency evaluation process. The Part IV exam is a practical exam which is now being used in lieu of the Practical exam previously developed and administered by the MBCE. (21 S.R. 1428)

Experimental Procedures - This rule is to address the need for additional notification and clarification to patients who may become financially responsible for procedures or therapies which may be less than traditional or less likely to be reimbursed by third party payors. (20 S.R. 324)

Fees; Repeal of fee related to costs for stipulations and orders - By rule, the board charges \$10.00 for stipulations and orders while only charging \$.25 a page to copy other documents. For

consistency, the board intends to repeal this rule (charging \$10.00) and utilize the normal copying charges for such requests (\$.25/page.) (23 S.R. 410)

Fees; Increase In Peer Review Fee - This is to recover costs which are currently underrecovered based on the utilization of the program versus the costs of administering it. (20 S.R. 834)

Graduate Preceptorship; Program Participation - This rule is to allow for the removal of the link to participation in this program to a specific period of time following graduation. Accordingly, an out of state practitioner may relocate and function under the supervision of a Minnesota licensed chiropractor for a limited period of time while pursuing licensure. (20 S.R. 834)

Graduate Preceptorship; Clarification of Fees - Improvement on language clarifying that the initial application and subsequent renewals are both subject to fees. (20 S.R. 2069)

License Status; Emeritus - This is to confer an honorary and permanent final status to those persons who have been licensed for many years but who have finally and fully retired from the practice of chiropractic. (21 S.R. 1429)

License Status; Inactive Retired License - This is for a repeal of a license classification no longer in use. (20 S.R. 1170)

License Status; Reinstatement of Terminated Licenses - This rule is designed to clarify the ability of the board to reinstate licenses when terminated for reasons not previously covered by reinstatement provisions. The reasons for termination were established, but the reinstatement for these failures was omitted. (20 S.R. 2068)

Opinions; Rendering of - The board seeks to clarify that the practice of chiropractic which includes examinations, diagnosis, and prognosis must necessarily include the rendering of opinions. (19 S.R. 2093)

Peer Review; Criteria for membership - This rule is designed to establish some specific qualifications for the professional members that may serve on the Peer Review Committee (21 S.R. 60)

Registrations; Summary Suspensions of - Registrations, such as acupuncture, independent examiner, preceptor, etc. typically have certain requirements which must be met in order to acquire the registration in the first place. The board is promulgating rules to allow for the suspension of such registration should the registrant no longer be in compliance with the requirements. (20 S.R. 324)

Registrations; Late Independent Examiner Registration Remedies - This is for the board to be able to assess a late penalty fee for those Independent examiners who do not comply with timely registration requirements. (20 S.R. 324)

Registrations; Late Acupuncture Registration Remedies - This is for the board to be able to assess a late penalty fee for those acupuncture registrants who do not comply with timely registration requirements. (20 S.R. 324)

Rules; Waivers/Variations - This rule will allow for discretionary decisions on the part of the board when a situation arises which was never anticipated during the promulgation of a rule. Substantial protections are built into the variance rule including the assurances that the process is public. (20 S.R. 2068)

SUMMARY

The information contained herein, may be considered an indicator of the health of the agency as well as the overall regulatory impact. As a legal matter, a health licensing board is established to protect the public against incompetency or substandard care by its regulated individuals. To this end, the two primary methods available to the health licensing boards to accomplish this agenda, are to assess entry level competencies, and to enforce the laws through the agency's quasi-judicial function. As a practical matter, the agency is required to accomplish this in a fiscally prudent manner which befits the dignity of the state.

The Minnesota Board of Chiropractic Examiners (MBCE) has established progressive policies toward determining entry level competencies by adopting the use of the National Board of Chiropractic Examiners (NBCE) practical examination. With the resources available to the NBCE, the quality and defensibility of this psychometrically sound exam exceed the capabilities of the MBCE. Accordingly, candidates are assessed for a broader range of capabilities and appropriate clinical decision making than was previously possible.

With regard to the quasi-judicial function, the statistics point out a 28% reduction in overall complaints when compared to the previous biennium. An optimistic view suggests that this results from the attempts by the board to refine its rulemaking experience to establish clear standards of professional behavior, while at the same time enforcing the statutes and rules firmly. It is arguable that this activity, combined with continual improvements in communication to the profession have served the MBCE well in reducing misunderstandings and resultant complaints.

With regard to fiscal restraint, the MBCE has held the line against costs and fee increases for five (5) years now. However, as a result of the rise in costs (particularly of the Attorney General's fees) the MBCE must increase fees to meet the expenditures of the agency. However, it is intended that this will be done in an equitable manner, resulting in negligible individual fiscal impact. In terms of fiscal integrity, the MBCE is in receipt of the most recent legislative audit, covering the period July 1, 1995 through June 30, 1997. In summary, the MBCE was found to be in compliance in all respects, and there were no recommendations made by the Legislative Auditors office. The audit stated:

The board designed controls to provide reasonable assurance that it collected and deposited appropriate fees. With respect to items tested, the board complied with applicable legal and policy provisions.

and

The Board of Chiropractic Examiners designed internal controls to provide assurance that payroll and other administrative expenditures were properly authorized and accurately reported in the accounting records. In addition, for the items tested, the board complied with material finance related legal provisions and applicable bargaining unit agreements.

In conclusion, the MBCE believes it has met its objectives described at the top of this page.